

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

_____ x

OMAR MARTINEZ,

Plaintiff, 08 CV 4974

-against- ANSWER

SPOTO'S RESTAURANT, INC. and
PETER SPOTO,

Defendants.

_____ x

Defendants Spoto's Restaurant, Inc. and Peter Spoto, answer the Complaint as follows:

1. Deny each and every allegation contained in the Complaint that alleges or tends to allege that any of the defendants violated any of the plaintiff's statutory or regulatory rights.
2. Admit the allegations contained in paragraphs 4, 5, 7, 18 and 28 of the Complaint.
3. Deny the allegations contained in paragraphs 1, 2, 3, 8, 10, 11, 13, 15, 16, 17, 20, 21, 22, 23, 24, 25, 27, 29, 30, 31 and 32 of the Complaint.
4. Deny sufficient knowledge or information to form a basis for responding to paragraphs 6, 9, 12, 15 and 19 of the Complaint.
5. As to the allegations contained in paragraph 5 of the Complaint, deny the implication that plaintiff is entitled to a declaratory judgment in his favor.

AS AND FOR A FIRST DEFENSE

6. This court does not have jurisdiction over the person of the defendant, Peter Spoto.

AS AND FOR A SECOND DEFENSE

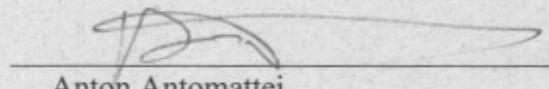
7. This court does not have subject matter jurisdiction over the defendants.

AS AND FOR A THIRD DEFENSE

8. The Complaint fails to state a claim upon which relief can be granted.

WHEREFORE, defendants Spoto's Restaurant, Inc. and Peter Spoto, respectfully request that this court dismiss the complaint, deny the relief requested by the plaintiff, award the costs and expenses bore by defendants, including reasonable attorney's and expert fees and such other and further relief as to the Court shall deem just and equitable.

Dated: Carmel, New York
July 7, 2008



Anton Antomattei
Defendants' Attorney
49 Arborview
Carmel, New York 10512
845.228.0077

TO:

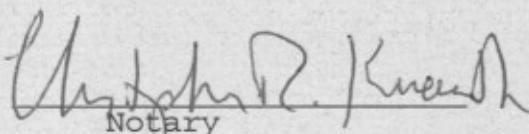
Clerk of the Court
United States District Court
Southern District of New York

Justin A. Zeller, Esq.
The Law Office of Justin A. Zeller, P.C.
251 West 14th Street, 5th Floor
New York, New York 10011

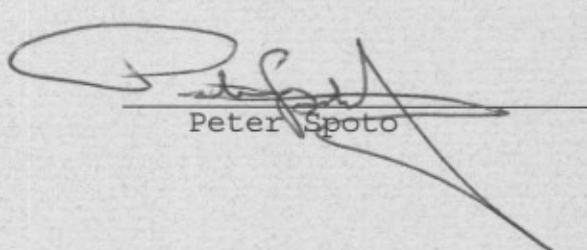
State of New York)
ss.:
County of Bronx)

Peter Spoto, Defendant above-named, Individually and in his capacity as chief operating officer of Defendant, Spoto's Restaurant, Inc. being duly sworn deposes and says: that he has read and knows the contents of the foregoing Answer; that the same is true as to his own knowledge, except as to the matters therein stated to be alleged on information and belief; and that, as to those matters, he believes it to be true.

Sworn to before me this 7th
day of July, 2008


Notary

CHRISTOPHER R. KNAUTH
NOTARY PUBLIC STATE OF NEW YORK
REG. NO. 02KN4749269
QUALIFIED IN ULSTER COUNTY
COMMISSION EXPIRES JULY 2, 2012


Peter Spoto

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

OMAR MARTINEZ,

Plaintiff,

08 CV 4974

-against-

PROOF OF SERVICE

SPOTO'S RESTAURANT, INC. and PETER SPOTO,

Defendants.

-----X

State of New York)

ss.:

County of Bronx)

Maria Mangone, residing at 24C Edgewater Park, Bronx, New York, being duly sworn deposes and says: That I am over the age of 18 and I am not a party to this action.

That on the 7th day of July, 2008, I served the within Answer with supporting papers upon:

Justin A. Zeller, Esq.
The Law Office of Justin A. Zeller, P.C.
251 West 14th Street, 5th Floor
New York, New York 10011

by depositing true copies of the same, securely enclosed in postpaid wrappers, in the Post Office Box regularly maintained by the United States Government at the Fordham Post Office located at 188th Street and Third Avenue, in the County of Bronx, being the address within the State designated by the party shown above, for that purpose.

Sworn to before me this 7th
day of July, 2008

Christopher R. Knauth

Notary

CHRISTOPHER R. KNAUTH
NOTARY PUBLIC STATE OF NEW YORK
REG. NO. 62KN4749269
QUALIFIED IN ULSTER COUNTY
COMMISSION EXPIRES JULY 2, 2012

Maria Mangone

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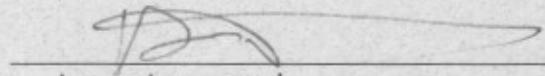
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Defendants' Attorney
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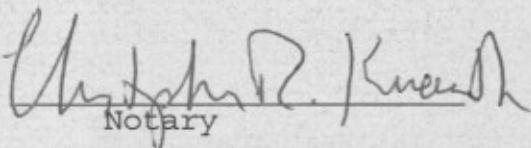
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UNITED STATES DISTRICT COURT
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